

AMENDED IN SENATE APRIL 27, 2004

AMENDED IN SENATE APRIL 1, 2004

**SENATE BILL**

**No. 1289**

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**Introduced by Senator Machado**

February 17, 2004

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An act to amend Sections 290 and 290.4 of the Penal Code, relating to sex offenders.

LEGISLATIVE COUNSEL'S DIGEST

SB 1289, as amended, Machado. Sex offenders.

Existing law requires persons convicted of certain sex offenses to register with specified law enforcement agencies in the location in which the person resides or, if the person has no residence, where he or she is located, within 5 days of changing residence or location.

Existing law provides that if the person who is registering has more than one residence address or location at which he or she regularly resides or is located, he or she shall register in each of the jurisdictions in which he or she regularly resides or is located.

This bill would provide that the registration requirement for multiple places applies regardless of ~~whether he or she resides or is located for more than 5 consecutive days~~ *the number of days or nights spent* in each residence or location. By increasing the registration requirements of local officials, and by changing the definition of a crime, the bill would impose a state-mandated local program.

Existing law provides that if any person who is required to register changes his or her residence address or location, the person shall inform, in writing within 5 working days, the law enforcement agency

or agencies with which he or she last registered of the new address or location.

This bill would provide that if the person does not know the new residence address or location, the registrant shall inform the last registering agency or agencies that he or she is moving within 5 working days of the move, and shall later notify the agency or agencies of the new address or location within 5 working days of moving into the new residence address or location, whether temporary or permanent.

~~Existing law provides that any person who is required to register under this section based on a misdemeanor conviction who willfully violates any requirement of this section is guilty of a misdemeanor. Existing law also generally provides that any person who is required to register under this section based on a felony conviction who willfully violates any requirement of this section or who has a prior conviction or juvenile adjudication for the offense of failing to register is guilty of a felony, and also provides that if probation is granted or if the imposition or execution of sentence is suspended it shall be a condition of the probation or suspension that the person serve at least 90 days in a county jail.~~

~~This bill would specify that the minimum 90-day sentence is applicable to both the misdemeanor and felony registrant.~~

Existing law provides that any person who is required to register who willfully violates any requirement of this section is guilty of a continuing offense.

This bill would provide that any person who is required to register under this section who willfully violates any requirement of this section is guilty of a continuing offense as to each requirement he or she violated.

Because a violation of the registration requirements is a crime, the bill would impose a state-mandated local program by changing the definition of a crime.

Existing law requires the Department of Justice to compile and continually update information concerning certain individuals who are required to register as sex offenders and to make that information available to the public via a “900” telephone number and distribution of a CD-ROM to law enforcement agencies, as specified.

This bill would make several technical, nonsubstantive changes to these provisions.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state.



Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 290 of the Penal Code is amended to  
2 read:

3 290. (a) (1) (A) Every person described in paragraph (2),  
4 for the rest of his or her life while residing in, or, if he or she has  
5 no residence, while located within California, or while attending  
6 school or working in California, as described in subparagraph (G),  
7 shall be required to register with the chief of police of the city in  
8 which he or she is residing, or if he or she has no residence, is  
9 located, or the sheriff of the county if he or she is residing, or if he  
10 or she has no residence, is located, in an unincorporated area or city  
11 that has no police department, and, additionally, with the chief of  
12 police of a campus of the University of California, the California  
13 State University, or community college if he or she is residing, or  
14 if he or she has no residence, is located upon the campus or in any  
15 of its facilities, within five working days of coming into, or  
16 changing his or her residence or location within, any city, county,  
17 or city and county, or campus in which he or she temporarily  
18 resides, or, if he or she has no residence, is located.

19 (B) If the person who is registering has more than one residence  
20 address or location at which he or she regularly resides or is  
21 located, he or she shall register in accordance with subparagraph  
22 (A) in each of the jurisdictions in which he or she regularly resides  
23 or is located, regardless of ~~whether he or she resides or is located~~  
24 ~~for more than five consecutive days in each residence or location.~~

1 *the number of days or nights spent there.* If all of the addresses or  
2 locations are within the same jurisdiction, the person shall provide  
3 the registering authority with all of the addresses or locations  
4 where he or she regularly resides or is located.

5 (C) If the person who is registering has no residence address,  
6 he or she shall update his or her registration no less than once every  
7 60 days in addition to the requirement in subparagraph (A), on a  
8 form as may be required by the Department of Justice, with the  
9 entity or entities described in subparagraph (A) in whose  
10 jurisdiction he or she is located at the time he or she is updating the  
11 registration.

12 (D) Beginning on his or her first birthday following  
13 registration or change of address, the person shall be required to  
14 register annually, within five working days of his or her birthday,  
15 to update his or her registration with the entities described in  
16 subparagraph (A). At the annual update, the person shall provide  
17 current information as required on the Department of Justice  
18 annual update form, including the information described in  
19 subparagraphs (A) to (C), inclusive, of paragraph (2) of  
20 subdivision (e).

21 (E) In addition, every person who has ever been adjudicated a  
22 sexually violent predator, as defined in Section 6600 of the  
23 Welfare and Institutions Code, shall, after his or her release from  
24 custody, verify his or her address no less than once every 90 days  
25 and place of employment, including the name and address of the  
26 employer, in a manner established by the Department of Justice.

27 (F) No entity shall require a person to pay a fee to register or  
28 update his or her registration pursuant to this section. The  
29 registering agency shall submit registrations, including annual  
30 updates or changes of address, directly into the Department of  
31 Justice Violent Crime Information Network (VCIN).

32 (G) Persons required to register in their state of residence who  
33 are out-of-state residents employed, or carrying on a vocation in  
34 California on a full-time or part-time basis, with or without  
35 compensation, for more than 14 days, or for an aggregate period  
36 exceeding 30 days in a calendar year, shall register in accordance  
37 with subparagraph (A). Persons described in paragraph (2) who  
38 are out-of-state residents enrolled in any educational institution in  
39 California, as defined in Section 22129 of the Education Code, on  
40 a full-time or part-time basis, shall register in accordance with

subparagraph (A). The place where the out-of-state resident is located, for purposes of registration, shall be the place where the person is employed, carrying on a vocation, or attending school. The out-of-state resident subject to this subparagraph shall, in addition to the information required pursuant to subdivision (e), provide the registering authority with the name of his or her place of employment or the name of the school attended in California, and his or her address or location in his or her state of residence. The registration requirement for persons subject to this subparagraph shall become operative on November 25, 2000. The terms “employed or carries on a vocation” include employment whether or not financially compensated, volunteered, or performed for government or educational benefit.

(2) The following persons shall be required to register pursuant to paragraph (1):

(A) Any person who, since July 1, 1944, has been or is hereafter convicted in any court in this state or in any federal or military court of a violation of Section 207 or 209 committed with intent to violate Section 261, 286, 288, 288a, or 289, Section 220, except assault to commit mayhem, Section 243.4, paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph (1) of subdivision (a) of Section 262 involving the use of force or violence for which the person is sentenced to the state prison, Section 264.1, 266, 266c, subdivision (b) of Section 266h, subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288, 288a, 288.5, or 289, Section 311.1, subdivision (b), (c), or (d) of Section 311.2, Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section 647a, subdivision (c) of Section 653f, subdivision 1 or 2 of Section 314, any offense involving lewd or lascivious conduct under Section 272, or any felony violation of Section 288.2; or any statutory predecessor that includes all elements of one of the above-mentioned offenses; or any person who since that date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses.

(B) Any person who, since July 1, 1944, has been or hereafter is released, discharged, or paroled from a penal institution where he or she was confined because of the commission or attempted commission of one of the offenses described in subparagraph (A).

(C) Any person who, since July 1, 1944, has been or hereafter is determined to be a mentally disordered sex offender under

1 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2  
2 of Division 6 of the Welfare and Institutions Code or any person  
3 who has been found guilty in the guilt phase of a trial for an offense  
4 for which registration is required by this section but who has been  
5 found not guilty by reason of insanity in the sanity phase of the  
6 trial.

7 (D) Any person who, since July 1, 1944, has been, or is  
8 hereafter convicted in any other court, including any state, federal,  
9 or military court, of any offense that, if committed or attempted in  
10 this state, would have been punishable as one or more of the  
11 offenses described in subparagraph (A) or any person ordered by  
12 any other court, including any state, federal, or military court, to  
13 register as a sex offender for any offense, if the court found at the  
14 time of conviction or sentencing that the person committed the  
15 offense as a result of sexual compulsion or for purposes of sexual  
16 gratification.

17 (E) Any person ordered by any court to register pursuant to this  
18 section for any offense not included specifically in this section if  
19 the court finds at the time of conviction or sentencing that the  
20 person committed the offense as a result of sexual compulsion or  
21 for purposes of sexual gratification. The court shall state on the  
22 record the reasons for its findings and the reasons for requiring  
23 registration.

24 (F) (i) Notwithstanding any other subdivision, a person who  
25 was convicted before January 1, 1976, under subdivision (a) of  
26 Section 286, or Section 288a, shall not be required to register  
27 pursuant to this section for that conviction if the conviction was for  
28 conduct between consenting adults that was decriminalized by  
29 Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes  
30 of 1976. The Department of Justice shall remove that person from  
31 the Sex Offender Registry, and the person is discharged from his  
32 or her duty to register pursuant to the following procedure:

33 (I) The person submits to the Department of Justice official  
34 documentary evidence, including court records or police reports,  
35 that demonstrate that the person's conviction pursuant to either of  
36 those sections was for conduct between consenting adults that was  
37 decriminalized; or

38 (II) The person submits to the department a declaration stating  
39 that the person's conviction pursuant to either of those sections was  
40 for consensual conduct between adults that has been



1 decriminalized. The declaration shall be confidential and not a  
2 public record, and shall include the person's name, address,  
3 telephone number, date of birth, and a summary of the  
4 circumstances leading to the conviction, including the date of the  
5 conviction and county of the occurrence.

6 (III) The department shall determine whether the person's  
7 conviction was for conduct between consensual adults that has  
8 been decriminalized. If the conviction was for consensual conduct  
9 between adults that has been decriminalized, and the person has no  
10 other offenses for which he or she is required to register pursuant  
11 to this section, the department shall, within 60 days of receipt of  
12 those documents, notify the person that he or she is relieved of the  
13 duty to register, and shall notify the local law enforcement agency  
14 with which the person is registered that he or she has been relieved  
15 of the duty to register. The local law enforcement agency shall  
16 remove the person's registration from its files within 30 days of  
17 receipt of notification. If the documentary or other evidence  
18 submitted is insufficient to establish the person's claim, the  
19 department shall, within 60 days of receipt of those documents,  
20 notify the person that his or her claim cannot be established, and  
21 that the person shall continue to register pursuant to this section.  
22 The department shall provide, upon the person's request, any  
23 information relied upon by the department in making its  
24 determination that the person shall continue to register pursuant to  
25 this section. Any person whose claim has been denied by the  
26 department pursuant to this clause may petition the court to appeal  
27 the department's denial of the person's claim.

28 (ii) On or before July 1, 1998, the department shall make a  
29 report to the Legislature concerning the status of persons who may  
30 come under the provisions of this subparagraph, including the  
31 number of persons who were convicted before January 1, 1976,  
32 under subdivision (a) of Section 286 or Section 288a and are  
33 required to register under this section, the average age of these  
34 persons, the number of these persons who have any subsequent  
35 convictions for a registerable sex offense, and the number of these  
36 persons who have sought successfully or unsuccessfully to be  
37 relieved of their duty to register under this section.

38 (b) (1) Any person who is released, discharged, or paroled  
39 from a jail, state or federal prison, school, road camp, or other  
40 institution where he or she was confined because of the



1 commission or attempted commission of one of the offenses  
2 specified in subdivision (a) or is released from a state hospital to  
3 which he or she was committed as a mentally disordered sex  
4 offender under Article 1 (commencing with Section 6300) of  
5 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions  
6 Code, shall, prior to discharge, parole, or release, be informed of  
7 his or her duty to register under this section by the official in charge  
8 of the place of confinement or hospital, and the official shall  
9 require the person to read and sign any form that may be required  
10 by the Department of Justice, stating that the duty of the person to  
11 register under this section has been explained to the person. The  
12 official in charge of the place of confinement or hospital shall  
13 obtain the address where the person expects to reside upon his or  
14 her discharge, parole, or release and shall report the address to the  
15 Department of Justice. The official shall at the same time forward  
16 a current photograph of the person to the Department of Justice.

17 (2) The official in charge of the place of confinement or  
18 hospital shall give one copy of the form to the person and shall send  
19 one copy to the Department of Justice and one copy to the  
20 appropriate law enforcement agency or agencies having  
21 jurisdiction over the place the person expects to reside upon  
22 discharge, parole, or release. If the conviction that makes the  
23 person subject to this section is a felony conviction, the official in  
24 charge shall, not later than 45 days prior to the scheduled release  
25 of the person, send one copy to the appropriate law enforcement  
26 agency or agencies having local jurisdiction where the person  
27 expects to reside upon discharge, parole, or release; one copy to the  
28 prosecuting agency that prosecuted the person; and one copy to the  
29 Department of Justice. The official in charge of the place of  
30 confinement or hospital shall retain one copy.

31 (c) (1) Any person who is convicted in this state of the  
32 commission or attempted commission of any of the offenses  
33 specified in subdivision (a) and who is released on probation, shall,  
34 prior to release or discharge, be informed of the duty to register  
35 under this section by the probation department, and a probation  
36 officer shall require the person to read and sign any form that may  
37 be required by the Department of Justice, stating that the duty of  
38 the person to register under this section has been explained to him  
39 or her. The probation officer shall obtain the address where the  
40 person expects to reside upon release or discharge and shall report



1 within three days the address to the Department of Justice. The  
2 probation officer shall give one copy of the form to the person,  
3 send one copy to the Department of Justice, and forward one copy  
4 to the appropriate law enforcement agency or agencies having  
5 local jurisdiction where the person expects to reside upon his or her  
6 discharge, parole, or release.

7 (2) Any person who is convicted in this state of the commission  
8 or attempted commission of any of the offenses specified in  
9 subdivision (a) and who is granted conditional release without  
10 supervised probation, or discharged upon payment of a fine, shall,  
11 prior to release or discharge, be informed of the duty to register  
12 under this section in open court by the court in which the person  
13 has been convicted, and the court shall require the person to read  
14 and sign any form that may be required by the Department of  
15 Justice, stating that the duty of the person to register under this  
16 section has been explained to him or her. If the court finds that it  
17 is in the interest of the efficiency of the court, the court may assign  
18 the bailiff to require the person to read and sign forms under this  
19 section. The court shall obtain the address where the person  
20 expects to reside upon release or discharge and shall report within  
21 three days the address to the Department of Justice. The court shall  
22 give one copy of the form to the person, send one copy to the  
23 Department of Justice, and forward one copy to the appropriate  
24 law enforcement agency or agencies having local jurisdiction  
25 where the person expects to reside upon his or her discharge,  
26 parole, or release.

27 (d) (1) Any person who, on or after January 1, 1986, is  
28 discharged or paroled from the Department of the Youth Authority  
29 to the custody of which he or she was committed after having been  
30 adjudicated a ward of the juvenile court pursuant to Section 602  
31 of the Welfare and Institutions Code because of the commission or  
32 attempted commission of any offense described in paragraph (3)  
33 shall be subject to registration under the procedures of this section.

34 (2) Any person who is discharged or paroled from a facility in  
35 another state that is equivalent to the Department of the Youth  
36 Authority, to the custody of which he or she was committed  
37 because of an offense which, if committed or attempted in this  
38 state, would have been punishable as one or more of the offenses  
39 described in paragraph (3), shall be subject to registration under  
40 the procedures of this section.

1 (3) Any person described in this subdivision who committed an  
2 offense in violation of any of the following provisions shall be  
3 required to register pursuant to this section:

4 (A) Assault with intent to commit rape, sodomy, oral  
5 copulation, or any violation of Section 264.1, 288, or 289 under  
6 Section 220.

7 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of  
8 subdivision (a) of Section 261, Section 264.1, 266c, or 267,  
9 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,  
10 Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b)  
11 of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of  
12 Section 289, or Section 647.6.

13 (C) A violation of Section 207 or 209 committed with the intent  
14 to violate Section 261, 286, 288, 288a, or 289.

15 (4) Prior to discharge or parole from the Department of the  
16 Youth Authority, any person who is subject to registration under  
17 this subdivision shall be informed of the duty to register under the  
18 procedures set forth in this section. Department of the Youth  
19 Authority officials shall transmit the required forms and  
20 information to the Department of Justice.

21 (5) All records specifically relating to the registration in the  
22 custody of the Department of Justice, law enforcement agencies,  
23 and other agencies or public officials shall be destroyed when the  
24 person who is required to register has his or her records sealed  
25 under the procedures set forth in Section 781 of the Welfare and  
26 Institutions Code. This subdivision shall not be construed as  
27 requiring the destruction of other criminal offender or juvenile  
28 records relating to the case that are maintained by the Department  
29 of Justice, law enforcement agencies, the juvenile court, or other  
30 agencies and public officials unless ordered by a court under  
31 Section 781 of the Welfare and Institutions Code.

32 (e) (1) On or after January 1, 1998, upon incarceration,  
33 placement, or commitment, or prior to release on probation, any  
34 person who is required to register under this section shall  
35 preregister. The preregistering official shall be the admitting  
36 officer at the place of incarceration, placement, or commitment, or  
37 the probation officer if the person is to be released on probation.  
38 The preregistration shall consist of all of the following:

1 (A) A preregistration statement in writing, signed by the  
2 person, giving information that shall be required by the  
3 Department of Justice.

4 (B) The fingerprints and a current photograph of the person.

5 (C) Any person who is preregistered pursuant to this  
6 subdivision is required to be preregistered only once.

7 (2) A person described in paragraph (2) of subdivision (a) shall  
8 register, or reregister if the person has previously registered, upon  
9 release from incarceration, placement, commitment, or *release on*  
10 probation pursuant to paragraph (1) of subdivision (a). The  
11 registration shall consist of all of the following:

12 (A) A statement in writing signed by the person, giving  
13 information as shall be required by the Department of Justice and  
14 giving the name and address of the person's employer, and the  
15 address of the person's place of employment if that is different  
16 from the employer's main address.

17 (B) The fingerprints and a current photograph of the person  
18 taken by the registering official.

19 (C) The license plate number of any vehicle owned by,  
20 regularly driven by, or registered in the name of the person.

21 (D) Notice to the person that, in addition to the requirements of  
22 paragraph (4), he or she may have a duty to register in any other  
23 state where he or she may relocate.

24 (E) Copies of adequate proof of residence, which shall be  
25 limited to a California driver's license, California identification  
26 card, recent rent or utility receipt, printed personalized checks or  
27 other recent banking documents showing that person's name and  
28 address, or any other information that the registering official  
29 believes is reliable. If the person has no residence and no  
30 reasonable expectation of obtaining a residence in the foreseeable  
31 future, the person shall so advise the registering official and shall  
32 sign a statement provided by the registering official stating that  
33 fact. Upon presentation of proof of residence to the registering  
34 official or a signed statement that the person has no residence, the  
35 person shall be allowed to register. If the person claims that he or  
36 she has a residence but does not have any proof of residence, he or  
37 she shall be allowed to register but shall furnish proof of residence  
38 within 30 days of the day he or she is allowed to register.

39 (3) Within three days thereafter, the preregistering official or  
40 the registering law enforcement agency or agencies shall forward

1 the statement, fingerprints, photograph, and vehicle license plate  
2 number, if any, to the Department of Justice.

3 (f) (1) If any person who is required to register pursuant to this  
4 section changes his or her residence address or location, whether  
5 within the jurisdiction in which he or she is currently registered or  
6 to a new jurisdiction inside or outside the state, the person shall  
7 inform, in writing within five working days, the law enforcement  
8 agency or agencies with which he or she last registered of the new  
9 address or location. If the person does not know the new residence  
10 address or location, the registrant shall inform the last registering  
11 agency or agencies that he or she is moving within five working  
12 days of the move, and shall later notify the agency or agencies of  
13 the new address or location within five working days of moving  
14 into the new residence address or location, whether temporary or  
15 permanent. The law enforcement agency or agencies shall, within  
16 three working days after receipt of this information, forward a  
17 copy of the change of address or location information to the  
18 Department of Justice. The Department of Justice shall forward  
19 appropriate registration data to the law enforcement agency or  
20 agencies having local jurisdiction of the new place of residence or  
21 location.

22 (2) If the person's new address is in a Department of the Youth  
23 Authority facility or a state prison or state mental institution, an  
24 official of the place of incarceration, placement, or commitment  
25 shall, within 90 days of receipt of the person, forward the  
26 registrant's change of address information to the Department of  
27 Justice. The agency need not provide a physical address for the  
28 registrant but shall indicate that he or she is serving a period of  
29 incarceration or commitment in a facility under the agency's  
30 jurisdiction. This paragraph shall apply to persons received in a  
31 Department of the Youth Authority facility or a state prison or state  
32 mental institution on or after January 1, 1999. The Department of  
33 Justice shall forward the change of address information to the  
34 agency with which the person last registered.

35 (3) If any person who is required to register pursuant to this  
36 section changes his or her name, the person shall inform, in person,  
37 the law enforcement agency or agencies with which he or she is  
38 currently registered within five working days. The law  
39 enforcement agency or agencies shall forward a copy of this

1 information to the Department of Justice within three working  
2 days of its receipt.

3 (g) (1) Any person who is required to register under this  
4 section based on a misdemeanor conviction or juvenile  
5 adjudication who willfully violates any requirement of this section  
6 is guilty of a misdemeanor punishable by imprisonment in a  
7 county jail not exceeding one year.

8 (2) Except as provided in paragraphs (5) and (7), any person  
9 who is required to register under this section based on a felony  
10 conviction or juvenile adjudication who willfully violates any  
11 requirement of this section or who has a prior conviction or  
12 juvenile adjudication for the offense of failing to register under this  
13 section and who subsequently and willfully violates any  
14 requirement of this section is guilty of a felony and shall be  
15 punished by imprisonment in the state prison for 16 months, or two  
16 or three years.

17 If probation is granted or if the imposition or execution of  
18 sentence is suspended ~~as to any conviction pursuant to paragraph~~  
19 ~~(1) or this paragraph~~, it shall be a condition of the probation or  
20 suspension that the person serve at least 90 days in a county jail.  
21 The penalty described in this paragraph shall apply whether or not  
22 the person has been released on parole or has been discharged from  
23 parole.

24 (3) Any person determined to be a mentally disordered sex  
25 offender or who has been found guilty in the guilt phase of trial for  
26 an offense for which registration is required under this section, but  
27 who has been found not guilty by reason of insanity in the sanity  
28 phase of the trial, or who has had a petition sustained in a juvenile  
29 adjudication for an offense for which registration is required under  
30 this section pursuant to subdivision (d), but who has been found  
31 not guilty by reason of insanity, who willfully violates any  
32 requirement of this section is guilty of a misdemeanor and shall be  
33 punished by imprisonment in a county jail not exceeding one year.  
34 For any second or subsequent willful violation of any requirement  
35 of this section, the person is guilty of a felony and shall be punished  
36 by imprisonment in the state prison for 16 months, or two or three  
37 years.

38 (4) If, after discharge from parole, the person is convicted of a  
39 felony or suffers a juvenile adjudication as specified in this  
40 subdivision, he or she shall be required to complete parole of at

1 least one year, in addition to any other punishment imposed under  
2 this subdivision. A person convicted of a felony as specified in this  
3 subdivision may be granted probation only in the unusual case  
4 where the interests of justice would best be served. When  
5 probation is granted under this paragraph, the court shall specify  
6 on the record and shall enter into the minutes the circumstances  
7 indicating that the interests of justice would best be served by the  
8 disposition.

9 (5) Any person who has ever been adjudicated a sexually  
10 violent predator, as defined in Section 6600 of the Welfare and  
11 Institutions Code, and who fails to verify his or her registration  
12 every 90 days as required pursuant to subparagraph (E) of  
13 paragraph (1) of subdivision (a), shall be punished by  
14 imprisonment in the state prison, or in a county jail not exceeding  
15 one year.

16 (6) Except as otherwise provided in paragraph (5), and in  
17 addition to any other penalty imposed under this subdivision, any  
18 person who is required pursuant to subparagraph (C) of paragraph  
19 (1) of subdivision (a) to update his or her registration every 60 days  
20 and willfully fails to update his or her registration is guilty of a  
21 misdemeanor and shall be punished by imprisonment in a county  
22 jail not exceeding six months. Any subsequent violation of this  
23 requirement that persons described in subparagraph (C) of  
24 paragraph (1) of subdivision (a) shall update their registration  
25 every 60 days is also a misdemeanor and shall be punished by  
26 imprisonment in a county jail not exceeding six months.

27 (7) Any person who fails to provide proof of residence as  
28 required by subparagraph (E) of paragraph (2) of subdivision (e),  
29 regardless of the offense upon which the duty to register is based,  
30 is guilty of a misdemeanor punishable by imprisonment in a  
31 county jail not exceeding six months.

32 (8) Any person who is required to register under this section  
33 who willfully violates any requirement of this section is guilty of  
34 a continuing offense as to each requirement he or she violated.

35 (h) Whenever any person is released on parole or probation and  
36 is required to register under this section but fails to do so within  
37 the time prescribed, the parole authority, the Youthful Offender  
38 Parole Board, or the court, as the case may be, shall order the  
39 parole or probation of the person revoked. For purposes of this



subdivision, “parole authority” has the same meaning as described in Section 3000.

(i) Except as provided in Sections 290.4 and 290.45, the statements, photographs, and fingerprints required by this section shall not be open to inspection by the public or by any person other than a regularly employed peace officer or other law enforcement officer.

(j) In any case in which a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county including firefighting, disaster control, or of whatever nature the assignment may be, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This subdivision shall not apply to any person who is temporarily released under guard from the institution where he or she is confined.

(k) As used in this section, “mentally disordered sex offender” includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which, on or before January 1, 1976, was contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

(l) (1) Every person who, prior to January 1, 1997, is required to register under this section, shall be notified whenever he or she next reregisters of the reduction of the registration period from 14 to five working days. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notification shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.

(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).



1 (m) The registration provisions of this section are applicable to  
2 every person described in this section, without regard to when his  
3 or her crimes were committed or his or her duty to register pursuant  
4 to this section arose, and to every offense described in this section,  
5 regardless of when it was committed.

6 SEC. 2. Section 290.4 of the Penal Code is amended to read:

7 290.4. (a) (1) The Department of Justice shall continually  
8 compile information as described in paragraph (2) regarding any  
9 person required to register under Section 290 for a conviction of  
10 Section 207 or 209 committed with the intent to violate Section  
11 261, 286, 288, 288a, or 289; Section 220, except assault to commit  
12 mayhem; Section 243.4, provided that the offense is a felony;  
13 paragraph (1), (2), (3), (4), or (6) of subdivision (a) of Section 261;  
14 Section 264.1; Section 266, provided that the offense is a felony;  
15 Section 266c, provided that the offense is a felony; Section 266j;  
16 Section 267; Section 269; paragraph (1) of subdivision (b) of  
17 Section 286, provided that the offense is a felony; paragraph (2)  
18 of subdivision (b), subdivision (c), (d), (f), (g), (i), (j), or (k) of  
19 Section 286; Section 288; paragraph (1) of subdivision (b) of  
20 Section 288a, provided that the offense is a felony; paragraph (2)  
21 of subdivision (b), (c), (d), (f), (g), (i), (j), or (k) of Section 288a;  
22 Section 288.5; subdivision (a), (b), (d), (e), (f), (g), or (h) of  
23 Section 289, provided that the offense is a felony; subdivision (i)  
24 or (j) of Section 289; Section 647.6; or the attempted commission  
25 of any of these offenses; or the statutory predecessor of any of  
26 these offenses or any offense which, if committed or attempted in  
27 this state, would have been punishable as one or more of the  
28 offenses described in this section. This requirement shall not be  
29 applied to a person whose duty to register has been terminated  
30 pursuant to paragraph (5) of subdivision (d) of Section 290, or to  
31 a person who has been relieved of his or her duty to register under  
32 Section 290.5.

33 (2) The information shall be categorized by community of  
34 residence and ZIP Code. The information shall include the names  
35 and known aliases of the person, a photograph, a physical  
36 description, gender, race, date of birth, the criminal history, and the  
37 address, including ZIP Code, in which the person resides, and any  
38 other information that the Department of Justice deems relevant,  
39 not including information that would identify the victim.

1 (3) The department shall operate a “900” telephone number  
 2 that members of the public may call and inquire whether a named  
 3 individual is listed among those described in this subdivision. The  
 4 caller shall furnish his or her first name, middle initial, and last  
 5 name. The department shall ascertain whether a named person  
 6 reasonably appears to be a person so listed and provide the caller  
 7 with the information described in paragraph (2), except the  
 8 department shall not disclose the name or address of a listed  
 9 person’s employer, or the street address or criminal history of a  
 10 person listed, except to disclose the ZIP Code area in which the  
 11 person resides and to describe the specific crimes for which the  
 12 registrant was required to register. The department shall decide  
 13 whether the named person reasonably appears to be a person listed,  
 14 based upon information from the caller providing information that  
 15 shall include (A) an exact street address, including apartment  
 16 number, social security number, California driver’s license or  
 17 identification number, or birth date along with additional  
 18 information that may include any of the following: name, hair  
 19 color, eye color, height, weight, distinctive markings, ethnicity; or  
 20 (B) any combination of at least six of the above-listed  
 21 characteristics if an exact birth date or address is not available. If  
 22 three of the characteristics provided include ethnicity, hair color,  
 23 and eye color, a seventh identifying characteristic shall be  
 24 provided. Any information identifying the victim by name, birth  
 25 date, address, or relation to the registrant shall be excluded by the  
 26 department.

27 (4) (A) The department shall provide a CD-ROM or other  
 28 electronic medium containing the information described in  
 29 paragraph (2), except the name or address of a listed person’s  
 30 employer, or the listed person’s street address and criminal history  
 31 other than the specific crimes for which the person was required  
 32 to register, for all persons described in paragraph (1) of subdivision  
 33 (a), and shall update and distribute the CD-ROM or other  
 34 electronic medium, to the sheriff’s department in each county,  
 35 municipal police departments of cities with a population of more  
 36 than 200,000, and each law enforcement agency listed in  
 37 subparagraph (I) of paragraph (1) of subdivision (b) of Section  
 38 290.45, except that school district police departments may receive  
 39 the information only upon request. These law enforcement  
 40 agencies may obtain additional copies by purchasing a yearly



1 subscription to the CD-ROM or other electronic medium from the  
2 Department of Justice for a yearly subscription fee. The  
3 Department of Justice, the sheriffs' departments, and the  
4 municipal police departments of cities with a population of more  
5 than 200,000 shall make, and the other law enforcement agencies  
6 may make, the CD-ROM or other electronic medium available for  
7 viewing by the public in accordance with the following: The  
8 agency may require that a person applying to view the CD-ROM  
9 or other electronic medium express an articulable purpose in order  
10 to have access thereto. The applicant shall provide identification  
11 in the form of a California driver's license, California  
12 identification card, or military identification card and orders with  
13 proof of permanent assignment or attachment to a military  
14 command or vessel in California, showing the applicant to be at  
15 least 18 years of age. The applicant shall sign a statement, on a  
16 form provided by the Department of Justice, stating that the  
17 applicant is not a registered sex offender, that he or she understands  
18 the purpose of the release of information is to allow members of  
19 the public to protect themselves and their children from sex  
20 offenders, and he or she understands it is unlawful to use  
21 information obtained from the CD-ROM or other electronic  
22 medium to commit a crime against any registrant or to engage in  
23 illegal discrimination or harassment of any registrant. The signed  
24 statement shall be maintained in a file in the designated law  
25 enforcement agency's office. A person under 18 years of age may  
26 accompany an applicant who is that person's parent or legal  
27 guardian for the purpose of viewing the CD-ROM or other  
28 electronic medium.

29 (B) The records of persons requesting to view the CD-ROM or  
30 other electronic medium are confidential, except that a copy of the  
31 applications requesting to view the CD-ROM or other electronic  
32 medium may be disclosed to law enforcement agencies for law  
33 enforcement purposes.

34 (C) Any information identifying the victim by name, birth date,  
35 address, or relationship to the registrant shall be excluded from the  
36 CD-ROM or other electronic medium.

37 (5) (A) The income from the operation of the "900" telephone  
38 number shall be deposited in the Sexual Predator Public  
39 Information Account within the Department of Justice for the  
40 purpose of the implementation of this section by the Department



1 of Justice, including all actual and reasonable costs related to  
2 establishing and maintaining the information described in  
3 subdivision (a) and the CD-ROM or other electronic medium  
4 described in this subdivision.

5 (B) The moneys in the Sexual Predator Public Information  
6 Account shall consist of income from the operation of the “900”  
7 telephone number program authorized by this section, proceeds of  
8 the loan made pursuant to Section 6 of the act adding this section,  
9 and any other funds made available to the account by the  
10 Legislature. Moneys in the account shall be available to the  
11 Department of Justice upon appropriation by the Legislature for  
12 the purpose specified in subparagraph (A).

13 (C) When the “900” telephone number is called, a preamble  
14 shall be played before charges begin to accrue. The preamble shall  
15 run at least the length of time required by federal law and shall  
16 provide the following information:

17 (i) Notice that the caller’s telephone number will be recorded.

18 (ii) The charges for use of the “900” telephone number.

19 (iii) Notice that the caller is required to identify himself or  
20 herself to the operator.

21 (iv) Notice that the caller is required to be 18 years of age or  
22 older.

23 (v) A warning that it is illegal to use information obtained  
24 through the “900” telephone number to commit a crime against  
25 any registrant or to engage in illegal discrimination or harassment  
26 against any registrant.

27 (vi) Notice that the caller is required to have the birth date,  
28 California driver’s license or identification number, social security  
29 number, address, or other identifying information regarding the  
30 person about whom information is sought in order to achieve a  
31 positive identification of that person.

32 (vii) A statement that the number is not a crime hotline and that  
33 any suspected criminal activity should be reported to local  
34 authorities.

35 (viii) A statement that the caller should have a reasonable  
36 suspicion that a person is at risk.

37 (D) The Department of Justice shall expend no more than six  
38 hundred thousand dollars (\$600,000) per year from any moneys  
39 appropriated by the Legislature from the account.

1 (b) (1) Any person who uses information disclosed pursuant to  
2 this section to commit a felony shall be punished, in addition and  
3 consecutive to, any other punishment, by a five-year term of  
4 imprisonment in the state prison.

5 (2) Any person who, without authorization, uses information  
6 disclosed pursuant to this section to commit a misdemeanor shall  
7 be subject to, in addition to any other penalty or fine imposed, a  
8 fine of not less than five hundred dollars (\$500) and not more than  
9 one thousand dollars (\$1,000).

10 (c) The record of the compilation of offender information on  
11 each CD-ROM or other electronic medium distributed pursuant to  
12 this section shall be used only for law enforcement purposes and  
13 the public safety purposes specified in this section and Sections  
14 290 and 290.45. This record shall not be distributed or removed  
15 from the custody of the law enforcement agency that is authorized  
16 to retain it. Information obtained from this record shall be  
17 disclosed to a member of the public only as provided in this  
18 section, Section 290, 290.45, or any other statute expressly  
19 authorizing it.

20 Any person who copies, distributes, discloses, or receives this  
21 record or information from it, except as authorized by law, is guilty  
22 of a misdemeanor, punishable by imprisonment in a county jail not  
23 to exceed six months, or by a fine not exceeding one thousand  
24 dollars (\$1,000), or by both that imprisonment and fine. This  
25 subdivision shall not apply to a law enforcement officer who  
26 makes a copy as part of his or her official duties in the course of  
27 a criminal investigation, court case, or as otherwise authorized by  
28 subdivision (b) of Section 290.45. This subdivision shall not  
29 prohibit copying information by handwriting.

30 Notwithstanding Section 6254.5 of the Government Code,  
31 disclosure of information pursuant to this section is not a waiver  
32 of exemptions under Chapter 3.5 (commencing with Section  
33 6250) of Title 1 of Division 7 of the Government Code and does  
34 not affect other statutory restrictions on disclosure in other  
35 situations.

36 (d) Unauthorized removal or destruction of the CD-ROM or  
37 other electronic medium from the offices of any law enforcement  
38 agency is a misdemeanor, punishable by imprisonment in a county  
39 jail not to exceed one year, or by a fine not exceeding one thousand  
40 dollars (\$1,000), or by both that imprisonment and fine.

1 (e) (1) A person is authorized to use information disclosed  
2 pursuant to this section only to protect a person at risk.

3 This section shall not affect authorized access to, or use of,  
4 information pursuant to, among other provisions, Sections 11105  
5 and 11105.3 of this code, Section 226.55 of the Civil Code,  
6 Sections 777.5 and 14409.2 of the Financial Code, Sections  
7 1522.01 and 1596.871 of the Health and Safety Code, and Section  
8 432.7 of the Labor Code.

9 (2) Except as authorized under paragraph (1) or any other  
10 provision of law, use of any information that is disclosed pursuant  
11 to this section for purposes relating to any of the following is  
12 prohibited:

13 (A) Health insurance.

14 (B) Insurance.

15 (C) Loans.

16 (D) Credit.

17 (E) Employment.

18 (F) Education, scholarships, or fellowships.

19 (G) Housing or accommodations.

20 (H) Benefits, privileges, or services provided by any business  
21 establishment.

22 (3) (A) Any use of information disclosed pursuant to this  
23 section for purposes other than those provided by paragraph (1) or  
24 in violation of paragraph (2) shall make the user liable for the  
25 actual damages, and any amount that may be determined by a jury  
26 or a court sitting without a jury, not exceeding three times the  
27 amount of actual damage, and not less than two hundred fifty  
28 dollars (\$250), and attorney's fees, exemplary damages, or a civil  
29 penalty not exceeding twenty-five thousand dollars (\$25,000).

30 (B) Whenever there is reasonable cause to believe that any  
31 person or group of persons is engaged in a pattern or practice of  
32 misuse of the "900" telephone number in violation of paragraph  
33 (2), the Attorney General, any district attorney, or city attorney, or  
34 any person aggrieved by the misuse of that number is authorized  
35 to bring a civil action in the appropriate court requesting  
36 preventive relief, including an application for a permanent or  
37 temporary injunction, restraining order, or other order against the  
38 person or group of persons responsible for the pattern or practice  
39 of misuse. The foregoing remedies shall be independent of any  
40 other remedies or procedures that may be available to an aggrieved

1 party under other provisions of law, including Part 2 (commencing  
2 with Section 43) of Division 1 of the Civil Code.

3 (f) This section shall not be deemed to authorize the  
4 publication, distribution, or disclosure of the address of any person  
5 about whom information can be published, distributed, or  
6 disclosed pursuant to this section.

7 (g) Community notification shall be governed by Section  
8 290.45.

9 (h) Any law enforcement agency and employees of any law  
10 enforcement agency shall be immune from liability for good faith  
11 conduct under this section. For the purposes of this section, “law  
12 enforcement agency” means the Attorney General of California,  
13 every district attorney, the Department of Corrections, the  
14 Department of the Youth Authority, and every state or local agency  
15 expressly authorized by statute to investigate or prosecute law  
16 violators.

17 (i) The registration and public notification provisions of this  
18 section are applicable to every person described in these sections,  
19 without regard to when his or her crimes were committed or his or  
20 her duty to register pursuant to Section 290 arose, and to every  
21 offense described in these sections, regardless of when it was  
22 committed.

23 (j) The Department of Justice shall mail an informational  
24 pamphlet to any member of the public who makes an inquiry using  
25 the “900” telephone number required by this section and who  
26 provides an address. The pamphlet shall provide basic information  
27 concerning appropriate steps parents, guardians, and other  
28 responsible adults can take to ensure a child is safe from a  
29 suspected child molester, including, but not limited to, how to  
30 identify suspicious activity by an adult, common facts and myths  
31 about child molesters, and how to obtain additional help and  
32 information. A notice to callers to the “900” telephone number  
33 that they will receive the pamphlet, if an address is provided, shall  
34 be included in the preamble required by this section.

35 (k) On or before July 1, 2001, and every year thereafter, the  
36 Department of Justice shall make a report to the Legislature  
37 concerning the operation of this section.

38 (l) Agencies disseminating information to the public pursuant  
39 to this section shall maintain records of those persons requesting



1 to view the CD-ROM or other electronic media for a minimum of  
2 five years.

3 (m) This section shall remain operative only until January 1,  
4 2007, and as of that date is repealed, unless a later enacted statute,  
5 which becomes effective on or before that date, deletes or extends  
6 that date.

7 SEC. 3. No reimbursement is required by this act pursuant to  
8 Section 6 of Article XIII B of the California Constitution for  
9 certain costs that may be incurred by a local agency or school  
10 district because in that regard this act creates a new crime or  
11 infraction, eliminates a crime or infraction, or changes the penalty  
12 for a crime or infraction, within the meaning of Section 17556 of  
13 the Government Code, or changes the definition of a crime within  
14 the meaning of Section 6 of Article XIII B of the California  
15 Constitution.

16 However, notwithstanding Section 17610 of the Government  
17 Code, if the Commission on State Mandates determines that this  
18 act contains other costs mandated by the state, reimbursement to  
19 local agencies and school districts for those costs shall be made  
20 pursuant to Part 7 (commencing with Section 17500) of Division  
21 4 of Title 2 of the Government Code. If the statewide cost of the  
22 claim for reimbursement does not exceed one million dollars  
23 (\$1,000,000), reimbursement shall be made from the State  
24 Mandates Claims Fund.

25 \_\_\_\_\_  
26 CORRECTIONS

27 **Text — Page 11.**